



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

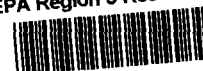
OCT 31 2002

REPLY TO THE ATTENTION OF:

RRG/Clayton Chemical Site

Mr. Philip J. Molé
Vice President
Mostardi Platt Environmental
1520 Kensington Road, Suite 204
Oak Brook, Illinois 60523-2139

EPA Region 5 Records Ctr.



285195

Re: Response to formal communications of September 27 and October 1, 2002 -
RRG/Clayton Chemical Company Superfund Site (Site), Sauget (St. Clair County) IL

Dear Mr. Molé:

Thank you very much for your letters of September 27 and October 1, 2002, regarding the above referenced Site and the position of your client, Lyons Metal Products, LLC (Lyons).

With regard to your request for a meeting, I am authorizing my assigned Superfund Division staff and the designated representative of the Office of Regional Counsel for this matter to meet with you at a mutually convenient time in early November 2002. These individuals (Mr. William Ryczek, Mr. Kevin Turner, and Mr. Thomas Turner) have worked closely with the Illinois Environmental Protection Agency (IEPA) and are very familiar with this case since its original referral to the United States Environmental Protection Agency (US EPA). They will contact you and make arrangements for a timely meeting.

In your September 27, 2002 letter, you inquired why some companies had been "de-listed" from the named generator parties at the Site. You referenced Purethane, AAA Distribution, Ambassador Building, and K & R Wood Products, and noted that they appeared to be no longer a part of a revised May 8, 2002 list. US EPA has not dropped any of these parties from its General Notice letter and accompanying Potentially Responsible Party (PRP) list of March 6, 2002. US EPA has been informed that the complying PRP group at the Site created an internal list of May 8, 2002, and may have determined that some parties were committed to taking part in the clean up and some parties were not. Perhaps this is the source of the confusion on this matter.

In your October 1, 2002 letter, you assert that your client (Lyons) deserves special consideration at the Site due to the potential for a re-characterization of the nature of the materials that it shipped to the Site for treatment, storage or disposal; and, the alleged limited degree of environmental impact caused by a re-calculation of the amount of material shipped to the Site by Lyons between 1995 and 1998. You have requested de minimis status, based upon the latter supposition. US EPA disagrees with both of your suppositions.

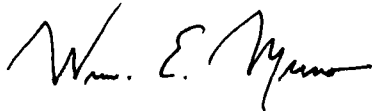
It is not relevant to the nature of the Superfund clean up at the Site, whether Lyon Metals' drums were present at the Site during the Site Assessment of June 2001. US EPA made use of the IEPA RCRA hazardous waste shipment records of 1995 through 1998, in order to determine the overall PRP group for purposes of the present hazardous liquids (and pending hazardous soils) clean up. The IEPA list has proven trustworthy, and is accepted by all other settling parties at the Site as an equitable approach to identifying the PRPs at the Site. US EPA believes that the IEPA documentation offers a rough approximation of ranked historical volumetric shares of hazardous substances brought to the Site. Of course, the nature of the operations of the Site, for at least the last 4 years of its existence, were such that US EPA firmly believes that many waste substances that came to the Site were mixed together, and some were placed into containment vessels that were compromised or very soon became compromised, due to age, improper maintenance or other factors.

Further, while you make the assertion (at p. 3, item 7 of your October 2002 letter) that there were no Lyon drums left at the site when RRG took control in 1996, it does not minimize the IEPA Annual Hazardous Waste Reports that show that Lyon Metals of Montgomery, IL sent spent paint solvents to the Site through 1997. These solvents represent a hazardous substance pursuant to CERCLA. Further, US EPA believes that those solvents have had an opportunity to effect an increase in the contamination at the Site. Nor is it clear to US EPA that all of the Lyon Metals liquid waste was removed or recycled. Based on your own assertions, US EPA allotted a much larger than de minimis share to Lyon Metals because it sent a large volume of overall hazardous waste to the Site. Even assuming that all hazardous liquid waste substances received by the Site facility were given roughly the same treatment, the high volume of Lyon Metals' shipments over the years in question increases the volumetric likelihood that Lyon Metals' waste remains on Site. Finally, the CERCLA statute allows for the option of a de minimis settlement when it is practicable and in the public interest. See, 42 USC Section 9622. At present, US EPA has not determined the need to make a full-scale de minimis ranking of volumetric liability, for the above mentioned reasons, and because the PRP parties that share essentially the same position in this matter as Lyon Metals chose to follow this equitable approach and settle under a CERCLA 106 AOC in early October 2002.

US EPA is convinced that your client, Lyons Metals, is a fully liable PRP at the Site, and strongly suggests that your client consider working with the settling PRP group at the Site. US EPA is currently exploring its own enforcement options with relation to non-cooperating PRPs at the Site.

I have instructed the previously mentioned US EPA Superfund and Office of Regional Counsel staff to arrange a meeting with you, at your earliest convenience. Please feel free to contact Mr. Ryczek or Mr. (Tom) Turner with any further comments or questions on this matter at 312/886-7184 or 312/886-6613, respectively.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. E. Muno". The signature is fluid and cursive, with the first name "W." and last name "Muno" being more distinct than the middle initial "E.".

William E. Muno, Director
Superfund Division

cc: T. Turner, ORC (C-14J)
Kevin Turner, OSC (SE-5J)
Bill Ryczek, Enf. Spec. (SE-5J)
John Maritote, EESS (SE-5J)
Records Center (SMR-7J)